

CITY COUNCIL AGENDA

AUGUST 21, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESI, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Cortese, Pyle, Williams. (Excused)

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 7)**
San José Taiko presented the Invocation.

Council Member Chu introduced Girl Scout Troop 772. Mayor Reed introduced Cub Scout Webelos Troup 334 from St. Francis Cabrini.
- **Pledge of Allegiance**
Mayor Reed and the Girl Scout Troup 772 led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the Northside Community Center Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor/Liccardo)
Mayor Reed, City Manager Debra Figone and Council Member Liccardo recognized and commended the Northside Community Center Team for their excellent dedication and important contributions to the City of San José.

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the Project Homeless Connect Team for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)
Mayor Reed and City Manager Debra Figone recognized and commended the Project Homeless Connect Team for their excellent dedication and important contributions to the City of San José.
- 1.3 Presentation of a commendation to Steven Tedesco for his years of service, zeal and passion to the Boys and Girls Club of Silicon Valley. (Cortese/Campos)
(Rules Committee referral 8/15/07)
Mayor Reed and Vice Mayor Cortese and Council Member Campos recognized and commended Mr. Steven Tedesco for his dedicated years of service to the Boys and Girls Club of Silicon Valley.
- 1.4 Presentation of a commendation to the San José SaberCats for winning the 21st Arena Football League Championship on July 29, 2007. (Mayor)
(Rules Committee referral 8/15/07)
Mayor Reed recognized and commended the San José SaberCats for their achievements.
- 1.5 Presentation of a commendation to Dinyari Incorporated for its presence and operations in San José and commitment to grow the local economy. (Mayor)
Mayor Reed recognized and commended Dinyari Incorporated for its continued presence and operations in the City of San José and for its commitment to the local economy.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of Minutes.

- (a) Regular Minutes of May 1, 2007
- (b) Council Study Session Minutes on the General Plan Update of May 3, 2007
- (c) Regular Minutes of May 8, 2007
- (d) Regular Minutes of May 15, 2007
- (e) Regular Minutes of May 22, 2007
- (f) 2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvement Program Study Session Minutes of May 7, 2007 through May 17, 2007
- (g) Minutes of the San José Financing Authority of May 22, 2007
- (h) Special Closed Session Minutes of May 29, 2007
- (i) Special Closed Session Minutes of May 30, 2007

Approved.

Disqualified: Chu.

2. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28088 – Amending Section 3.36.550 of Chapter 3.36 of Title 3 of the San José Municipal Code to authorize limited liability companies as a vehicle in which the Board of Administration for the Police and Fire Department Retirement Plan may invest in and take title to real estate investments.

Ordinance No. 28088 adopted.

2.3 Acceptance of the Office of the City Auditor's Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities for the Period May 16 Through June 15, 2007*. (City Auditor)

(Rules Committee referral 8/7/07)

Report Accepted.

2.4 Acceptance of the findings report relating to the Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Acceptance of the findings report from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending December 31, 2006. (City Auditor)

(Rules Committee referral 8/7/07)

Report Accepted.

2.5 Approval of actions related to changing Artworks in the Downtown Transit Corridor.

Recommendation:

- (a) Approval of an agreement between Santa Clara Valley Transportation Authority, and the City of San José to provide up to \$180,000 to fund changing artwork in the Downtown Transit Corridor to match the City's contribution with a total amount not to exceed \$360,000.

Approved.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (1) Establish an appropriation to the Office of Economic Development for the Changing Art in the Transit Corridor appropriation in the amount of \$180,000.

- (2) Increase the estimate for Other Revenue by \$180,000.

CEQA: Resolution No. 72767. (Economic Development/City Manager's Office)

Ordinance No. 28102 adopted.

Resolution No. 73957 adopted.

2. CONSENT CALENDAR

2.6 Report on bids and award of contract for the Water Pollution Control Plant Compressed Air Upgrade Project.

Recommendation: Report on bids and award of contract for the construction project entitled, “San José/Santa Clara Water Pollution Control Plant, FY 2007/2008 Compressed Air Upgrade Project,” to the low bidder, Air Perfection, Inc. in the amount of \$292,009; and approval of a contingency in the amount of \$27,000 for a total agreement amount not to exceed \$319,009. CEQA: Exempt, File No. PP07-169. (Environmental Services)

Approved.

2.7 Approval of Travel for Independent Police Auditor Barbara Attard.

Recommendation: Approval of travel by Independent Police Auditor Barbara Attard to Chilpancingo, Guerrero, Mexico in August 2007 to participate in an upcoming Seminar to Launch the Guerrero Police Oversight Office at no cost to the City. (Independent Police Auditor)
(Rules Committee referral 8/7/07)

Approved.

2.8 Approval of actions related to the annexation of McKee No. 129.

Recommendation: Adoption of a resolution authorizing the reorganization of the territory designated as McKee No. 129 which involves the annexation to the City of San José of 0.82 acres more or less of land located at the southeast corner of North Capitol Avenue and Grandview Drive, and generally bounded by the City of San José Annexations McKee Nos. 9, 44 and 97, and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459, File No. C06-106. Council District 4. (Planning, Building and Code Enforcement)

Resolution No. 73958 adopted.

2.9 Approval of actions related to the Mayfair Community Center Public Art Project.

Recommendation:

- (a) Approval of an agreement with Fernanda D’Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400.

(Item continued on the next page)

2. CONSENT CALENDAR

2.9 Approval of actions related to the Mayfair Community Center Public Art Project (Cont'd.)

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Parks and Recreation Bond Projects Fund (Fund 471):
 - (1) Increase appropriation to the Office of Economic Development for the Public Art-Park and Recreation Bond Projects by \$141,000.
 - (2) Increase the Beginning Fund Balance estimate by \$141,000.
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Fund 450):
 - (1) Increase the appropriation to the Department of Public Works for the Mayfair Community Center Project by \$64,000;
 - (2) Increase the Beginning Fund Balance estimate by \$64,000.
- (d) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Office of Economic Development in the amount of \$10,000 for the Mayfair Community Center Public Art Project;
 - (2) Decrease the appropriation to the Office of Economic Development for the Plata Arroyo Skate Park Development Public Art Project by \$8,000; and
 - (3) Decrease the appropriation to the Office of Economic Development for the Children of the Rainbow Park Renovation Public Art Project by \$2,000.

CEQA: Exempt, File No. PP05-184. (City Manager's Office/Economic Development)
(Deferred from 8/7/07 – Item 2.4 and 8/14/07 – Item 2.3)

Dropped per Council District 5.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee Mayor Reed, Chair No Report.

3.2 Report of the Public Safety, Finance and Strategic Support Committee Council Member Nguyen, Chair No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 Approval of actions related to the Sunshine Reform Task Force Phase I Report and Recommendations.

Recommendation: Approval of the Sunshine Reform Task Force Phase I Report and Recommendations for Closed Session and Public Information, as amended by the Rules and Open Government Committee, and direction to staff to proceed with implementation on a pilot basis. CEQA: Not a Project. (City Manager's Office)
(Deferred from 8/7/07 – Item 3.12)

- (1) **Approved the Public Information provisions of the Sunshine Reform Task Force (SRTF) Phase 1 Report and directed Staff to proceed with implementation on a pilot basis.**
- (2) **Approved the Closed Session provisions of the SRTF Phase 1 report for the City Council and the Redevelopment Agency's conduct of closed sessions, with the exception of audio recording closed session, and directed Staff to proceed with implementation on a pilot basis.**
- (3) **Deferred audio recording of Closed Session until Staff returns, with input from the SRTF, with a process of certification and appeal has been developed and to be approved by the Council.**
- (4) **Directed Staff to continue outreach and gather feedback from other bodies that hold closed session and other potentially affected entities and report back to the Rules and Open Government Committee in September 2007.**

3.4 Approval of an agreement with the San José Conservation Corps, Inc. for community improvement activities.

Recommendation: Adoption of a resolution:

- (a) Authorizing the City Manager to negotiate and execute a master agreement with the San Jose Conservation Corps, Inc. (SJCC) to provide services for community improvement activities for the period of July 1, 2007 to June 30, 2008, with four (4) annual options to extend the agreement by one year.
- (b) Finding that the SJCC provides programs to at-risk youth with essential job training and development opportunities and that this unique service presents an unusual or unique situation that make applying the requirements for competitive procurement of a services agreement contrary to the public interest.
- (c) Finding that the City's prevailing wage policy does not include services provided by the SJCC.

CEQA: Not a Project. (City Manager's Office)

Resolution No. 73959 adopted.

3. STRATEGIC SUPPORT SERVICES

3.5 Approval of the Report on the Request for Proposal for On-site Reprographic Services at City Hall.

Recommendation: Report on Request for Proposal for on-site reprographic services at City Hall and adoption of a resolution authorizing the Director of Finance to:

- (a) Execute a three year agreement with Newcal Industries, Inc. to operate a copying and printing facility in City Hall for the period September 1, 2007 through August 31, 2010, for a total three year compensation not to exceed \$3,000,000.
- (b) Execute two one-year options to renew the agreement subject to annual Consumer Price Index adjustments and annual appropriation of funds.

CEQA: Not a Project. (Finance)

Resolution No. 73960 adopted.

3.6 Approval of actions related to SB 2 (Cedillo) – By-Right Housing.

Recommendation: As recommended by the Rules and Open Government Committee on August 15, 2007 adopt an oppose position for Senate Bill 2 (Cedillo) – By-Right Housing. (Housing)

[Rules Committee referral 8/15/07 – Item C(1)(b)]

Oppose position adopted, unless amended, with Staff requested to report back on any amendments to the bill in the City Manager’s Weekly Report.

3.7 Approval of actions related to AB 1430 (Garrick) Political Reform Act: Contributions: Member Communications.

Recommendation: As recommended by the Rules and Open Government Committee on August 15, 2007, adopt an oppose position for Assembly Bill 1430, Political Reform Act: Contributions: Member Communications. (City Attorney)

[Rules and Open Government Committee referral 8/15/07 – Item (C)(1)(c)]

Oppose position adopted.

3.8 Acceptance of the August 8, 2007 State Legislative Bill Matrix.

Recommendation: As recommended by the Rules and Open Government Committee on August 15, 2007, accept the August 8, 2007 State Legislative Bill Matrix. CEQA: Not a Project. (City Manager)

[Rules and Open Government Committee referral 8/15/07 – Item (C)(1)(c)]

Accepted, with Staff requested to provide to the Council a copy of AB117.

4. COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 Report of the Community & Economic Development Committee**
Council Member Pyle, Chair
No Report.

- 4.2 Approval of the City Hall Exhibits Policy.**

Recommendation: Adoption of a resolution approving the City Hall Exhibits Policy.
CEQA: Not a Project. (Economic Development)

[Community and Economic Development Committee Referral 6/25/07 – Item (f)]
(Deferred from 8/7/07 – Item 4.5 and 8/14/07 – Item 3.8)

Resolution No. 73961 adopted, as amended, by adding guidelines for exhibits on the 18th Floor of City Hall.

- 4.3 Administrative Hearing relating to the appeal of Condition No. 15.f in Planned Development Permit No. PD05-069 relating to the SE corner of Hostetter Road and Sierra Creek Way.**

Recommendation: Administrative Hearing on appeal and adoption of a resolution denying the appeal and approving staff's recommendation to reduce the required reimbursement in Condition No. 15.f of Planned Development Permit No. PD05-069 which requires reimbursement to the City of its costs of traffic improvements for the construction of six single-family detached units on an 0.83 gross acre site at the SE corner of Hostetter Road and Sierra Creek Way, from \$548,268 to \$341,349 (a reduction of \$206,919). CEQA: Mitigated Negative Declaration. Council District 4. (Public Works/ Planning, Building and Code Enforcement)

Deferred to 9/18/07 per Administration.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee – August 9, 2007**
Council Member Chirco, Chair

(a) Report on ABAG Regional Needs Program
The Committee accepted the Staff report.

(b) Evaluation of Second Unit Pilot Program
Deferred to October 2007.

(c) Report on Annual Adjustment to PDO/PIO Fees Following Land Survey
The Committee approved the recommendation that this report be brought before the full Council for review and approval of fees.
See Item 5.5 for Council Action taken.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – August 9, 2007 Council Member Chirco, Chair (Cont'd.)

- (d) Sports Field Study Update
The Committee accepted the Staff report.
- (e) Strong Neighborhoods Monthly Update
The Committee approved the Staff recommendation with the following amendments:
 - (1) **The Neighborhoods Commission annual work plan will be developed in coordination with and approved by the Neighborhood Services and Education Committee (NSE).**
 - (2) **The Neighborhoods Commission to be instituted as a pilot from April 1, 2008 to March 31, 2010.**
 - (3) **The Neighborhoods Commission to provide quarterly updates to the NSE Committee throughout the two year pilot period.**
- (f) Schools/City Collaborative Monthly Update
 - (1) Reports from School Safety, Joint Use and Teacher Recruitment/Retention Sub-committees
The Committee approved the update.
- (g) Status Report on Tree Preservation Services
The Committee accepted the Staff report.
- (h) Report on Sidewalk Repair Notice and Permit Letter
The Committee accepted the Staff report.
- (i) Report on Key Legislative Items
The Committee accepted the Staff report.
- (j) Oral Petitions.
None were presented.
- (k) Adjournment
The meeting was adjourned at 3:37 p.m.

The Neighborhood Services and Education Committee Report and the Actions of August 9, 2007 were accepted.

5. NEIGHBORHOOD SERVICES

5.2 Approval of the Master Plan for the Alma Community Center Site Renovation.

Recommendation: Approval of the Master Plan for the Alma Community Center Site Renovation. CEQA: Exempt, File No. PP07-049. Council District 7. SNI: Washington. (Parks, Recreation and Neighborhood Services)

Approved, with Staff directed to provide additional information to the Council about the budget and artificial turf.

5.3 Approval of an agreement with KaBOOM! for installation of playground equipment in City parks.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with KaBOOM! for planning, design, and project management services for the installation of playground equipment in City parks by volunteers which will include a waiver of the City's standard contractual requirements for indemnification, insurance and record keeping. CEQA: Exempt, File No. PP07-116. Council District 8. SNI: K.O.N.A. (Parks, Recreation and Neighborhood Services)

Resolution No. 73962 adopted, as amended, with Staff directed to:

- (1) **Work out a mutually agreed upon alternative with KaBOOM! to address recordkeeping issues (i.e. product warranties).**
- (2) **Return to Council with information about other similar projects and an evaluation of this pilot project.**

5.4 Approval of the City-Wide Aquatics Master Plan.

Recommendation: Approval of the 2007 City-Wide Aquatics Master Plan. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Approved.

5.5 Approval of actions related to Parkland Dedication and Park Impact Ordinances In-lieu Fees Adjustments.

Recommendation: Acceptance of the report regarding the Parkland In-Lieu Fees associated with the Parkland Dedication Ordinance (PDO) and the Park Impact Ordinance (PIO) and direction to staff to prepare for City Council consideration a resolution to establish the revised Parkland In-Lieu Fees Schedule to go into effect on February 1, 2008, to reflect the 2006 Residential Land Value Study. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

[Neighborhood Services and Education Committee – 8/9/07 – Item 5.1(c)]

Accepted.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee**
Council Member Williams, Chair
No Report.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Notice of City Engineer's Pending Decision on Final Maps**
None.
- **Notice of City Engineer's Award of Construction Projects**
None.
- **Open Forum**
 - (1) **Mark Trout Mark Trout expressed religious viewpoints.**
 - (2) **Robert Apgar shared personal observations.**
 - (3) **William Garrett stated that the car theft rate in San José is accelerating per the San José Mercury.**
 - (4) **Stephen Hazel voiced personal points of view.**
 - (5) **Ross Signorino complimented Mayor Reed on how he presides over the meeting.**
- **Adjournment**

The Council of the City of San José was adjourned at 6:21 p.m. in memory of Michael O'Kane, a retired school administrator and community volunteer, who passed away recently; In memory of Bill Williams, a community activist who served as a founding member of the San Jose Branch of the NAACP. He also founded the San Juan Bautista Child Development Center, an agency that has grown to operating 28 programs at 12 different sites serving over 1,300 children from low income and single parent families last year. Through his leadership he has been involved in a myriad of other for profit and non-profit organizations, including assisting others to establish non-profit organizations for the benefit of the people they serve. Bill Williams touched many, many lives.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 6:22 p.m. to consider Items 8.1 in a Joint Session.

8.1 Approval to issue up to \$38,000,000 in Multifamily Housing Revenue Refunding Bonds and related actions.

Recommendations:

- (a) Public Hearing of the City Council pursuant to Federal Tax Equity Fiscal Responsibility Act for the issuance of up to \$38,000,000 in tax-exempt public activity bonds for the refunding of the Agency's \$38,000,000 in Variable Rate Demand Multifamily Housing Revenue Bonds (101 San Fernando Apartments), Series 1998A and adoption of a resolution by the City Council approving the issuance of the 2007 Bonds described below.

The Public Hearing was held.

Resolution No. 73963 adopted.

- (b) Approval by the Agency Board of an agreement with FC Third Street Associates regarding the terms of the Agency's issuance of the 2007 Bonds, including an Issuers fee of at least \$120,000 and the resolution of prior disputes between the parties.

Approved.

- (c) Adoption of a resolution by the Redevelopment Agency Board:
 - (1) Authorizing the issuance of Multifamily Housing Revenue Refunding Bonds, Series 2007A in the amount not to exceed \$38,000,000; and approving in substantially final form a Trust Indenture with Wells Fargo Bank, National Association, a Loan Agreement with the Borrower, and a First Amendment to the Regulatory Agreement with the Trustee and Borrower.
 - (2) Approving the private placement of the 2007 Bonds with Merrill Lynch, Pierce, Fenner & Smith Incorporated or a related entity.
 - (3) Authorizing all officers, agents and employees to take such actions and execute such documents necessary and desirable to accomplish the issuance of the 2007 Bonds.

[CENTURY CENTER]

Redevelopment Agency Resolution No. 5776 adopted.

The Council of the City of San José and Redevelopment Agency Board adjourned at 6:26 p.m.